STATE OF ILLINOIS ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company

:

Petition to approve an Advanced Metering Infrastructure Pilot Program and associated tariffs

Docket No. 09-0263

BRIEF ON EXCEPTIONS OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

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STAFF OF THE ILLINOIS COMMERCE COMMISSION

Staff of the Illinois Commerce Commission ("Staff"), by and through its counsel, pursuant to Section 200.830 of the Rules of Practice (83 III. Adm. Code 200.800) of the Illinois Commerce Commission's ("Commission"), respectfully submits its Brief on Exceptions to the Proposed Order ("Proposed Order" or "PO") issued by the Administrative Law Judges ("ALJs") on September 25, 2009 in the above-captioned matter.

I. INTRODUCTION

On September 25, 2009, the Administrative Law Judges ("ALJs") issued a Proposed Order ("PO"). Although Staff supports most of the PO, there are items to which Staff takes exception as set forth below.

II. EXCEPTIONS

A. City of Elgin Meters

The PO essentially agrees with Staff witness Dr. Brightwell that any cost that is associated with the award to the City of Elgin as part of ComEd's "Community Energy Challenge" should not be passed on to all of ComEd's consumers. PO, p. 19. The PO goes on though to state that:

However, if ComEd and/or the City of Elgin can demonstrate, in Briefs on Exception, that the Elgin project will be analyzed and evaluated pursuant to the AMI pilot program that is the subject of this docket, this issue will be revisited at that time.

Id. The above language could be interpreted as inviting ComEd and the City of Elgin to put additional evidence in the record. However, the record in this proceeding has been marked heard and taken and briefs on exceptions are not the time to put new facts or information into the record. Therefore any demonstration by ComEd or the City of Elgin is limited to evidence in the record and as the record exists now there is no proposal or information regarding the analysis or evaluation of Elgin as part of the pilot program. ICC Staff Ex. 3.0, p. 2. Accordingly the language should be stricken.

Recommended Language

(PO, p. 19)

* * *

However, if ComEd and/or the City of Elgin can demonstrate, in Briefs on Exception, that the Elgin project will be analyzed and evaluated pursuant to the AMI pilot program that is the subject of this docket, this issue will be revisited at that time.

* * *

B. Rider Recovery

The Proposed Order rejects arguments by the CTA, Metra, AG and AARP regarding the appropriateness of rider recovery for Rider AMP. See PO, pp. 23-25. While Staff does not take exception to the Proposed Order's rejection of these arguments, the reasoning provided in support of the Proposed Order's ruling is not clearly expressed and could be interpreted to reflect legal conclusions which Staff considers inaccurate or overbroad. Moreover, Staff finds this analysis to be unnecessary since the Commission approved Rider AMP¹ in its final order in Docket 07-0566 "for the very limited purpose of implementing Phase 0 – a scaled deployment of AMI – as a pilot program." *In re Commonwealth Edison Co.*, ICC Docket No. 07-0566, p. 138 (Order, Sept. 10, 2008) ("07-0566 Order"). These arguments should simply be rejected as an improper collateral attack.

The challenges to rider recovery under Rider AMP amount to collateral attacks of the Commission's decision in the *07-0566 Order*. Collateral attacks are impermissible and these arguments should be rejected on that basis. Under Illinois law a party to a pending action cannot in a new proceeding seek relief that is or could have been the subject of another pending proceeding. See East Side Levee and Sanitary District v. Madison County Levee and Sanitary District, 54 III. 2d 442, 445 (1973); Illini Coach Co. v. Illinois Commerce Commission, 408 III. 104, 110, 113 (1951). It is Staff's understanding that the AG and other parties have appealed the Commission's ruling in

¹ Rider AMP was called Rider SMP in the *07-0566 Order*. Since the Commission approved Rider SMP for the limited purpose of implementing Phase 0 of the AMI project investment, ComEd renamed it Rider AMP in its compliance filing.

Docket No. 07-0566, and the Commission's rider approval decision should not be reconsidered here.

Certain statements in the Proposed Order could be misinterpreted to reflect legal conclusions or analysis that are not appropriate here. The Proposed Order mentions that the pilot program may be funded by federal stimulus dollars and indicates that in that sense it is an anomaly and imposes costs for a limited period of time. PO, p. 24. While these statements are correct, they could be misinterpreted to suggest that any project receiving federal stimulus dollars is appropriate for rider recovery. There is no record to support that finding in this docket. Projects that receive federal stimulus dollars may or may not be appropriate for rider recovery, depending on the particular facts and circumstances presented. This issue is clearly presented in Docket 09-0407, and it should not be pre-judged here.

The Proposed Order also discusses "A Finkl & Sons Company and Citizens Utility Board v. Illinois Commerce Commission and Commonwealth Edison Company, 620 N.E.2d 1141, 250 Ill.App.3d 317, 328 (1st Dist. 1993)," asserts that Finkl involved revenues and not costs, and notes that revenues are not the same as costs. PO, p. 24. It is not clear to Staff how the Proposed Order is using these statements to reject the parties' arguments. If meant to suggest that riders for costs rather than revenues are not subject to not subject to any of the limitations identified in Finkl, Staff disagrees. While revenues were one aspect of the rider under consideration in Finkl, there were also cost issues. In striking down the rider the court specifically found that the DSM-related expenses at issue were ordinary expenses such as: "payroll for specifically identified planning and similar positions; personnel training, education and travel;

contractors and consultants costs; out-of-pocket promotion and computer costs; and conducting workshops." Finkl, 250 III. App. 3d at 326-327.

The Proposed Order also suggests that single issue ratemaking is never a concern for riders considered outside of a rate case. This is an overstatement of the law. A decision to allow rider recovery must be adequately supported by the facts and circumstances of the rider under consideration. Absent such support, a rider contravenes the prohibitions against single issue ratemaking. In *A. Finkl & Sons Co. v. Illinois Commerce Comm'n*, 250 III. App. 3d 317 (1st Dist. 1993), the court found that the Commission's approval of a rider to recover costs associated with demand-side management ("DSM") programs violated the prohibition against single issue ratemaking:

In the present case, the Commission authorized Edison to charge customers for DSM program costs without considering whether other factors offset the need for additional charges. The order violates the prohibition against single-issue ratemaking. The order thereby isolates one operating expense for full recovery without considering whether changes in other expenses or increased sales and income obviate the need for increased charges to consumers, which may result impermissibly in ratepayers facing additional charges for direct and indirect additional revenues to cover Edison's expenses and pay a return to its investors.

Id. at 325-326. While all riders would seem to raise single issue ratemaking concerns since they are typically used to recover specific or isolated costs, the court made clear that all riders are not prohibited by the rule against single issue ratemaking. Rather, the court recognized that "[r]iders are useful in alleviating the burden imposed upon a utility in meeting unexpected, volatile or fluctuating expenses," but found that the DSM-related expenses at issue were ordinary expenses that "reveal no greater potential for unexpected, volatile or fluctuating expenses which Edison cannot control, than costs incurred in estimating base ratemaking." Id. at 326-327. Thus, the Finkl opinion establishes that rider recovery is exempt from the prohibition against single issue

ratemaking when there is adequate justification or need for rider recovery – such as alleviating the burden imposed upon a utility in meeting unexpected, volatile or fluctuating expenses.

In Central III. Light Co. v. Illinois Commerce Comm'n, 255 III. App. 3d 876 (3rd Dist. 1993) ("CILCO v. ICC"), affirmed in part and reversed in part, Citizens Util. Bd. v. Illinois Commerce Comm'n, 166 III. 2d 111 (1995) ("CUB v. ICC"), the Third District appellate court and Illinois supreme court both upheld the Commission's approval of a rider to recover coal tar clean-up expenditures for costs associated with cleaning up environmental damage resulting from former manufactured gas plant operations. Significantly, the Third District's opinion made clear that adequate justification for rider recovery existed in rejecting arguments that the proposed rider violates the prohibitions against single-issue and retroactive ratemaking as well as the Commission's test year rules:

In Finkl, the First District reversed an order of the Commission which had allowed Commonwealth Edison to utilize a rider to recover costs associated with demand-side management programs. Although the court found the rider in that case to violate both the prohibition against single-issue and retroactive ratemaking, and to contravene the Commission's "test year" requirements, we do not interpret the opinion as holding that all riders are prohibited. We note the opinion states with apparent approval that riders are useful in alleviating the burden imposed on utilities in meeting unexpected, volatile or fluctuating expenses. However, in the case before the court, the First District found the demand-side management expenses were not of such a nature as to require rider treatment, and could be readily addressed through traditional base rate proceedings.

* * *

In the instant case, we find no abuse of discretion on the part of the Commission in concluding that coal tar remediation costs can be recovered through a rider mechanism. The record shows these costs will vary widely from year to year depending on the type of remediation activities: from relatively small sums in the thousands (investigation costs)

to the millions of dollars (actual cleanup costs). We view these costs as the type of unexpected, volatile and fluctuating costs which are more efficiently addressed through a rider mechanism. Therefore, we find the Commission had the authority to authorize a rider as the preferred method of recovery, and that under the circumstances such authorization did not constitute an abuse of discretion.

Id. at 884-885 (emphasis added).

In the subsequent appeal to the supreme court, the court found that the prohibition against single-issue ratemaking does not constrain the Commission's ability to approve direct recovery of unique costs when rider recovery is warranted:

The prohibition against single-issue ratemaking requires that, in a general base rate proceeding, the Commission must examine all elements of the revenue requirement formula to determine the interaction and overall impact any change will have on the utility's revenue requirement, including its return on investment. The rule does not circumscribe the Commission's ability to approve direct recovery of unique costs through a rider when circumstances warrant such treatment.

Id. at 137-138 (emphasis added). The supreme court found that there was adequate support for rider recovery of coal tar clean-up expenses:

In the generic coal-tar order at issue in this appeal, the Commission stated that, given the wide variations and the difficulties in forecasting the costs of investigation and remediation activities, riders can generally be expected to provide a more accurate and efficient means of tracking costs and matching such costs with recoveries than would base rate recovery methods. Numerous witnesses testified to the uncertain and variable nature of the expenses for coal-tar clean up. We find that the proposed recovery through a rider mechanism, outside the context of a traditional rate proceeding, does not violate the prohibition against single-issue ratemaking.

Id. at 138-139 (emphasis added).

In City of Chicago v. Illinois Commerce Comm'n, 281 III. App. 3d 617 (1st Dist. 1996) the court upheld the Commission's order directing Commonwealth Edison Company ("ComEd") to remove local franchise fees from base rates for all customers and to localize recovery of those costs by a separate line item charge on the bills of

customers residing in the municipality charging the fee. In response to an argument that the rider violated the prohibition against single-issue ratemaking, the court noted that "[t]he Commission has the power to authorize riders in a proper case and such authorization will not be reversed absent an abuse of discretion." *Id.* at 627. The court also explained that "[s]ingle-issue ratemaking is prohibited because it considers changes in isolation, thereby ignoring potentially offsetting considerations and risking understatement or overstatement of the overall revenue requirement." *Id.* The court also observed that while the supreme court's decision in *CUB v. ICC* found that a rider was appropriate for fluctuating costs, "it did not limit the use of a rider only to those instances where costs are unexpected, volatile or fluctuating." *Id.* at 628. While acknowledging that riders must be closely scrutinized because of the danger of single issue ratemaking, the court concluded that the danger of ignoring some items that might have an impact on the overall revenue requirement did not exist under the facts of this case:

Here, however, that danger was not present. The proposed restructuring was exactly that--a reallocation which did not have any impact whatsoever on Edison's overall revenue requirement. The franchise fees were already included in Edison's overall rate structure; the Commission's order simply redistributed them. Because the rider here "merely facilitates direct recovery of a particular cost, without direct impact on the utility's rate of return" (*Citizens Utility Board*, 166 III. 2d at 138, 651 N.E.2d at 1102), it was not an abuse of discretion for the Commission to use it as the mechanism of cost recovery.

Id. at 628-629.

While the Commission clearly has the discretionary authority under the PUA to provide for rider recovery of costs in appropriate circumstances, the prohibition against single issue ratemaking is not a non-issue. Rather, the case law clearly

indicates that the prohibition against single issue ratemaking is not absolute and does not prohibit rider recovery in appropriate circumstances.

The Proposed Order should be modified to avoid the ambiguity and potential misstatements discussed above.

Staff recommends that the Proposed Order be modified as follows:

Alternative 1

Completely delete Analysis and Conclusions on pages 247-25 of the Proposed Order and replace with the following:

We approved Rider AMP in its final order in Docket 07-0566 "for the very limited purpose of implementing Phase 0 – a scaled deployment of AMI – as a pilot program." In re Commonwealth Edison Co., ICC Docket No. 07-0566, p. 138 (Order, Sept. 10, 2008) The arguments raised by CTA, Metra, AG and AARP amount to collateral attacks of our decision to permit rider recovery for Phase 0 of AMI in Docket 07-0566. Under Illinois law a party to a pending action cannot in a new proceeding seek relief that is or could have been the subject of another pending proceeding. See East Side Levee and Sanitary District v. Madison County Levee and Sanitary District, 54 III. 2d 442, 445 (1973); Illini Coach Co. v. Illinois Commerce Commission, 408 III. 104, 110, 113 (1951). We decline to reconsider our decision in Docket 07-0566 in this docket.

Alternative 2

The program here is a pilot program, which may be funded in part by federal stimulus dollars. In that sense, it is an anomaly, in that, it imposes the cost of this program for a limited period of time. And, the costs that it imposes upon ratepayers are minimal.

In A Finkl & Sons Company and Citizens Utility Board v. Illinois Commerce Commission and Commonwealth Edison Company, 620 N.E.2d 1141, 250 Ill.App.3d 317, 328 (1st Dist. 1993), this Commission issued an order that allowed an electric supplier to recover its lost earnings, due to implementation of demand-side programs ("DSMs") from its DSM customers, via a rider. Demand-side programs, the Appellate Court noted, reduce the use of electricity and influence the distribution of a

utility's total electricity demand over time. The Appellate Court concluded in *Finkl*, that charging ratepayers for lost revenue, due to a decrease demand from this DSM program, vitiates the goal of reducing energy costs by reducing demand. *A. Finkl & Sons*, 250 III. App. 3d at 320, 328-29.

It also concluded that the lost revenue charge did not reflect the cost of providing service, and, it did not reflect a cost that benefits ratepayers. According to the Appellate Court, this charge added to the utility's revenues, without regard to whether its demand or revenues increased because of factors that were unrelated to DSM programs. The *Finkl* Court further ruled that, because no test year was used in developing this rider, this Commission could not determine whether any increase in DSM expenditures would be offset by a decrease in other expenditures that were currently reflected in its revenue requirement. *Id.* at 330-331.

We also note that the subject of Finkl was revenue, not recuperation of costs incurred. Revenues are not the same as recuperation of costs. Revenues are income. (Merriem-Webster.com). A "cost" on the other hand, is the price that is paid for something. (ld.). In fact, the Finkl Court specifically noted that the charge imposed in that case did not reflect the cost of service. A. Finkl & Sons, 250 III. App. 3d at 330-31.

While we agree that generally, use of a rider should be sparing, it is well-settled that use of a rider is an appropriate mechanism that does not constitute single-issue ratemaking, as, the prohibition against single-issue ratemaking requires only that, in a general base rate proceeding, this Commission must examine all elements of a utility's revenue requirement, including its return on investment. The prohibition against single-issue is not an absolute bar to ratemaking does not circumscribe this Commission's ability to approve direct recovery of a particular cost through a rider. Citizens Utility Board v. III. Commerce Comm., 166 III. 2d 111, 137-38, 651 N.E. 2d 1089 (1995). We continue to find for the reasons expressed in Docket No. 07-0566 that Rider recovery of the pilot program in this instance is legal and should be adopted.

C. Cost Allocation

Staff takes exception to the PO's conclusion concerning the allocation of costs to customers classes under the proposed rider. Staff's concern lies with the conclusion that costs associated with the Customer Applications portion of the proposed program be allocated solely to those classes directly participating in those activities.

The PO states that it appreciates Staff's contention that the program will benefit all classes because it "is designed to encourage reduced consumption of electricity" and "reduced consumption reduces prices, which benefits everyone." PO, p. 41. Nevertheless, the PO contends that the same can be said for an energy efficiency program. According to the PO, "[b]oth types of programs are meant to encourage the efficient use of energy, which, in turn, lowers the overall cost of electricity and lessens pollution for everyone. However, one of the chief reasons that the general public is required to pay for the benefits that energy efficiency programs provide to individuals or entities is to lower the overall cost of energy for everyone. 220 ILCS 5/8-103." PO, p. 41. Based on this argument the PO adopts the same allocation as approved for ComEd's Energy Efficiency Plan (Docket, docket 07-0540.

The key to the discussion is the PO's erroneous conclusion that the Customer Applications rates and programs can be considered analogous to energy efficiency programs. This is simply not true. There is a fundamental difference between the rate design experiments being examined under the Customer Applications process and the energy efficiency programs cited in the PO. The energy efficiency programs considered in Docket No. 07-0540 provide direct benefits to individual customers in the form of lower energy costs and lower bills as a result. The proposed rate designs have a different purpose. They are not designed over the long run to lower the bills of each and every customer. Rather, their purpose is to encourage changes in consumption patterns that would benefit the system as a whole. For example, if the Company were to extend its inverted rate structure experiment to all residential customers, some customers would experience bill reductions, but others clearly would face higher bills as a result.

However, there could be benefits to the system that outweigh the disadvantages for some individual customers that cause the utility to go forward anyway. Thus, the focus of these rate experiments is on sending signals to ratepayers to change their consumption patterns and thereby lower system costs over the long run. There is no guarantee that individual ratepayers will experience lower bills under these alternative rates in the long run and it is possible that, in fact, they will go up.

Another problem with the analogy to energy efficiency costs is that the rates being studied under the Customer Allocations program can be directly applicable to all rate classes. A case in point is the real time pricing component of Customer Applications. The results of this experiment would be relevant for larger non-residential ComEd ratepayers because they along with other customers are eligible to take service under an existing RTP tariff. A similar conclusion can be reached for the increasing block rate structures being studied which may be considered for delivery service ratemaking for all rate classes. (ICC Staff Ex. 6.0, p. 6)

Thus, the benefits of the Customer Applications are clearly more system-oriented than energy efficiency programs and the PO's recommendation to assign the attendant costs to residential customers is misguided. All customers should be allocated these costs under the weighted meter allocator proposed by Staff.

Based on the forgoing argument, Staff proposes the following change to the Analysis and Conclusions section of the PO pertaining to the recovery of program costs under the rider:

Recommended Language (PO, pp. 40-42)

Analysis and Conclusions

With regard to imposing the cost of this pilot program upon the Railroad Class, (the CTA/Metra) this Commission has previously rejected imposition of those costs in rate cases upon the Railroad Class. As the CTA and Metra note, the railroads already have systems in place that equate to, or, are indeed superior to, the ones that will be included in the pilot program here. And, this pilot program concerns, primarily, residential customers, with some small businesses also being tested. Imposing the cost of this pilot program upon the CTA and Metra, when they are not the cost-causers, is unfair. Additionally, imposing more costs upon these two entities runs counter to this Commission's policy of encouraging the use of public transportation for environmental reasons. Therefore, the Railroad Class shall not be included in any Rider recovery for the cost of the project that is the subject of this docket.

We are *not* basing this conclusion solely upon what was done in previous ComEd rate cases. Rather, we are recognizing this Commission's general policy of encouraging public transportation for environmental reasons, and, myriad other obvious public policy reasons, such as, the fact that imposing costs on public transportation providers can limit these providers' ability to provide this transportation.

We also agree with the IIEC's and Staff's argument that the weighted meter allocator from ComEd's last rate case should be the determinant regarding how the cost of the pilot program is passed on to ratepayers. The pilot program is one involving meters and the use of meters. Therefore, the cost of this program should be allocated in accordance with what is used when meter-related costs are recovered in base rates. This is especially true when one considers that, in ComEd's next rate case, it will, in all likelihood, fold these meter costs into rate base. If this occurs, these costs will then be allocated to ratepayers in accordance with the weighted meter allocator.

However, we disagree with <u>IIEC's</u> Staff's assertion that the cost of the customer applications portion of the program should be borne <u>solely by the residential class</u> equally by all of the <u>rate classes</u>. Including commercial and industrial customers in such a manner <u>appropriately reflects the benefits</u> does not reflect what these classes will receive by way of tangible benefits from the pilot program. We <u>fully supportappreciate</u> Mr. Lazare's position that large commercial and industrial customers will benefit from the pilot program, in a general sense, as this program is designed to encourage reduced consumption of electricity. As Staff points out, reduced consumption reduces prices, which benefits everyone.

The IIEC's argument that these Customer Applications are analogous to same can be said for an energy efficiency program is incorrect. Indeed, in a broad sense, the pilot program here could be viewed as a type of energy efficiency program, as, it encourages the efficient use of electricity and reduced energy usage. We agree disagree with Staff's argument that energy efficiency programs are conceptually different from the program here. While the energy efficiency programs provide direct benefits to individual customers in the form of lower energy costs and lower bills as a result, the proposed rate designs have a different purpose. They are not designed over the long run to lower the bills of each and every customer. Rather, their purpose is to encourage changes in consumption patterns that would benefit the system as a whole. The focus of these rate experiments is on sending signals to ratepayers to change their consumption patterns and thereby lower system costs over the long run. There is no guarantee that individual ratepayers will experience lower bills under these alternative rates in the long run and it is possible that, in fact, they will go up. Another flaw with the analogy to energy efficiency programs is that the rates being studied under the Customer Allocations program can be directly applicable to all rate classes as discussed below with regard to real time pricing. -Both types of programs are meant to encourage the efficient use of energy, which, in turn, lowers the overall cost of electricity and lessens pollution for everyone. However, one of the chief reasons that the general public is required to pay for the benefits that energy efficiency programs provide to individuals or entities is to lower the overall cost of energy for everyone. 220 ILCS 5/8-103.

Thus, we conclude that the costs should be allocated in a <u>different</u> manner than that mirrors what was done in ComEd's Energy Efficiency Plan docket, docket 07-0540. In that docket, we approved separate cost-recovery mechanisms from three different customer classes, residential, small commercial and industrial and large commercial and industrial. These mechanisms were based upon the class-specific costs in ComEd's Energy Efficiency Plan. See, Docket 07-0540, Order of February 6, 2008, at 36-39. In contrast, we will allocate the costs associated with Customer Applications to all rate classes because of the system wide benefits that will result from these experiments. The IIEC's proposal here is similar to what was done in docket 07-0540.

In so ruling, we note that it is important to determine what customer classes are receiving actual and immediate benefits from a program. Additionally, the evidence overwhelming demonstrates that the large commercial customers, those that use 400 kW of electricity or more, will receive very little in the way of actual, tangible benefits. A case in point is the real time pricing component of Customer Applications. The results of this experiment would be relevant for larger non-residential ComEd ratepayers because they along with other customers are eligible to take

service under an existing RTP tariff. A similar conclusion can be reached for the increasing block rate structures being studied which may be considered for delivery service ratemaking for all rate classes. We also note that many large commercial and industrial customers already have the technology and information that this program will provide. Also, the IIEC's proposal does not let large commercial and industrial customers "off the hook" with regard to contributing toward the overall cost of the pilot program. It merely provides that these customers will pay an amount that is commensurate with what they receive from this program.

We conclude, therefore, that the <u>Staff's IIEC's</u> proposal is more commensurate with cost-causation principles. It is hereby adopted. With regard to customer classes that are outside the Railroad Class, the weighted meter allocator in IIEC Ex. 1.1 shall be used when determining customer costs.

D. Technical Corrections

1. (IX.) Caps on the Cost of Customer Applications Program

The PO correctly concludes that the recovery of customer applications program costs should be capped at 10% above the projected cost. (PO p. 28) The PO, though, in discussing the ruling gives an inaccurate description of the reconciliation proceeding. Therefore, the PO should be clarified.

Recommended Language (PO, p. 28)

Analysis and Conclusions

* * *

In so ruling, we also conclude that a reconciliation proceeding does not guard against over-spending. It merely ensures provides an opportunity that expenditures that are imprudently-incurred will be refunded, at the time of the conclusion of the reconciliation proceeding. ...

2. (XI) Whether to Include Incentive Compensation Costs in Rider AMP

The PO correctly concludes that ComEd should exclude incentive compensation costs from Rider AMP. (PO p. 31) The PO, though, does not direct ComEd to revise Rider AMP to explicitly exclude such costs. Therefore, the PO should order ComEd to revise Rider AMP amend its Analysis and Conclusion and Findings and Ordering Paragraphs.

Recommended Language (PO, p.31)

Analysis and Conclusions

We agree with Staff's conclusion that the proper place for incentive compensation cost recovery is a general rate case, not here. This docket is a unique program. In relation to this specific program, we must determine what costs are reasonable to pass on to consumers. We are not determining what general costs are reasonably passed on to consumers, which is what would be the situation in a general rate proceeding. Rather, we are determining what costs, in relation to this particular program, should be passed on to consumers. Therefore, what has been done in ComEd's previous rate cases is not precedent as to what costs should be passed on to consumers here. ComEd shall revise its Rider AMP to expressly exclude cost recovery of incentive compensation through Rider AMP.

* * *

Recommended Language (PO, p. 55)

XX. FINDINGS AND ORDERING PARAGRAPHS

(7) Rider AMP, as revised to include (a) the recovery of the Operating and Maintenance expenses related to the Customer Application Plan, and (b) the recovery of Smart Grid projects and (c) the exclusion of incentive compensation costs is hereby approved;

III. CONCLUSION

Staff respectfully requests that the Illinois Commerce Commission approve Staff's recommendations in this docket.

Respectfully submitted,

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September 30, 2009